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Arizona Corporation Commission

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AUG 4 2017

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15 **BEFORE THE ARIZONA CORPORATION COMMISSION**

16 COMMISSIONERS

17 TOM FORESE, Chairman
18 BOB BURNS
19 DOUG LITTLE
20 ANDY TOBIN
21 BOYD DUNN

22 IN THE MATTER OF THE
23 APPLICATION OF ARIZONA PUBLIC
24 SERVICE COMPANY FOR A HEARING
25 TO DETERMINE THE FAIR VALUE OF
26 THE UTILITY PROPERTY OF THE
27 COMPANY FOR RATEMAKING
28 PURPOSES, TO FIX A JUST AND
REASONABLE RATE OF RETURN
THEREON, TO APPROVE RATE
SCHEDULES DESIGNED TO DEVELOP
SUCH RETURN.

DOCKET NO. E-01345A-16-0036

**ARIZONA PUBLIC SERVICE
COMPANY'S EXCEPTIONS AND
CLARIFICATIONS TO
RECOMMENDED OPINION AND
ORDER**

IN THE MATTER OF FUEL AND
PURCHASED POWER PROCUREMENT
AUDITS FOR ARIZONA PUBLIC
SERVICE COMPANY.

DOCKET NO. E-01345A-16-0123

26 APS appreciates the hard work that Judge Jibilian, ACC Staff, RUCO, and all
27 other parties have put into this proceeding. The detailed and thorough Recommended
28 Opinion and Order exemplifies this effort, and also provides insight into what it took to

1 get here. As stated in the ROO, “a broad range of parties representing vastly different
2 interests were able to craft a comprehensive agreement through negotiation and
3 compromise.”¹ This is undeniably the case.

4 Twenty-nine parties representing virtually every perspective in this proceeding
5 were able to find enough common ground to resolve their differences. Through the
6 course of vigorous negotiation and after numerous compromises, the parties successfully
7 crafted a Settlement Agreement that not only offers numerous benefits to customers, but
8 also accomplishes many outcomes that would simply not have been possible with a
9 litigated outcome, including a pilot program to incent customers to adopt technologies to
10 manage demand and reduce system peak; the continuation of a cost-based buy-through
11 program for industrial and large commercial customers; a program designed to make
12 rooftop solar more accessible to limited income customers; and, a historic resolution to
13 long-standing disputes between APS and the rooftop solar industry.

14 APS strongly supports the ROO’s adoption of the Settlement Agreement. There
15 are two items, however, that the parties included in their Term Sheet and Settlement
16 Agreement, but which the ROO did not include. APS requests that these two items be
17 expressly articulated in the ROO to reflect the settling parties’ intent. These items, as
18 well as other, limited exceptions and clarifications, are addressed below.

19 **I. THE ROO REQUIRES THREE ADJUSTMENTS TO ACCURATELY**
20 **REFLECT THE SETTLING PARTIES’ AGREEMENT.**

21 To reach a settlement, the parties made a series of interrelated compromises. The
22 final terms they reached were initially reflected in the March 1, 2017 Term Sheet, and
23 later reproduced in the final Settlement Agreement itself. The signing parties offer these
24 terms as an interdependent whole. When taken together, the terms constitute a
25 conclusion to this rate case that each of the signing parties can support.

26 By adopting the Settlement Agreement, the ROO adopted this interdependent
27 package. In doing so, the ROO should have explicitly included two terms that the

28 ¹ ROO at 59.

1 settling parties expressly included as part of their global compromise: (1) specific
2 language, similar to that adopted by the ROO for the Ocotillo Modernization Project,
3 providing for a deferral of the costs to install Selective Catalytic Reduction (SCR)
4 equipment at the Four Corners Power Plant; and (2) funding the \$1.25 million in
5 additional crisis bill assistance through the revenue requirement. In addition, the ROO
6 referenced the agreed-upon June 1, 2019 date for the Rate Case Stability provision, but
7 ordered a June 19, 2019 date.

8 **A. The ROO appears to adopt the SCR deferral and step increase, but**
9 **appears to inadvertently omit critical language needed to support the**
10 **deferral.**

11 In Section 9.1 of the Settlement Agreement, the parties agreed that APS should
12 be permitted to seek an adjustment to its rates to reflect the costs associated with
13 installing the SCR equipment at the Four Corners Power Plant. The ROO recommends
14 that the Commission approve this component of the parties' agreement.

15 The ROO does not address, however, the other component of the parties'
16 agreement related to the Four Corners SCRs: the deferral of the associated costs before
17 any step increase. In Paragraph 7(b) of the Term Sheet, the parties agreed that "APS
18 would be permitted a cost deferral order in this proceeding for the [Four Corners]
19 SCRs...." The parties reiterated this term in Section 9.2 of the Settlement Agreement,
20 which provides that until APS can adjust its rates to reflect the SCR costs, APS should
21 be permitted to defer those costs.² Although the ROO clearly indicates its intent to adopt
22 the Settlement Agreement,³ it does not expressly include language needed to accomplish
23 this deferral.

24 APS's outside auditors require precise language to permit a cost deferral—
25 language that the ROO already recommends in relation to the Ocotillo Modernization
26 Project.⁴ Without this language, APS likely cannot defer the costs. And without the
27 ability to defer costs associated with installing the Four Corners SCRs, APS may need to

28 ² See Settlement Agreement at 9.2.

³ See ROO at 59.

⁴ See ROO at 102.

1 immediately file a new rate case. In Attachment 1, APS provides language that would
2 amend the ROO to reflect the signing parties' agreement.

3 **B. The settling parties intended for the crisis bill assistance to be**
4 **included in the revenue requirement.**

5 Section 29 of the Settlement Agreement provides that APS will fund the crisis
6 bill assistance program by \$1.25 million annually. Based on comments by Commission
7 Staff in its closing briefs, the ROO indicates that APS shareholders will provide this
8 funding. This funding specifically, however, does not appear in the Settlement
9 Agreement. Instead, the March 1 Term Sheet demonstrates the parties' agreement that
10 this crisis bill assistance funding would be part of the overall revenue requirement.

11 The Term Sheet reflects the parties' agreement, stating that the \$87.25 million
12 non-fuel, non-depreciation revenue requirement increase specifically included "\$1.25
13 million dedicated to crisis bill assistance."⁵ The final Settlement Agreement filed later
14 that month was not intended to and did not change the terms on which the parties had
15 already agreed. Instead, the Settlement Agreement was only intended to distill the term
16 sheet into final language. Indeed, that the final Settlement Agreement does not actually
17 reference the ultimate source of the funding, and instead merely states that APS will
18 fund the \$1.25 million in crisis bill assistance, is consistent with funding from the
19 overall revenue requirement.

20 Funding the crisis bill assistance from the revenue requirement is an important
21 component of the Settlement Agreement. The ROO clearly recommends adopting the
22 Settlement Agreement.⁶ The sole provision on which the ROO indicates any intent to
23 deviate from the Settlement Agreement is with regard to customer notifications related
24 to the 90-day trial period, and in deviating, the ROO does so clearly.⁷ By contrast, the
25 ROO does not indicate any intent to deviate from the Settlement Agreement in relation
26 to the crisis bill assistance funding. Accordingly, APS requests that the ROO be

27 ⁵ See Term Sheet at Paragraph 1, filed in Docket No. E-01345A-16-0036 and E-01345A-16-0123 on
March 1, 2017.

28 ⁶ See ROO at 59.

⁷ See ROO at 53-54 and 102.

1 modified to reflect the parties' intent by replacing references to funding "by
2 shareholders" with funding in the revenue requirement. The amendment in Attachment 1
3 provides changes to the ROO so that it conforms to the parties' intended agreement.

4 **C. APS requests a minor clarification regarding the rate case stability**
5 **provision.**

6 Section 4.2 of the Settlement Agreement provides that APS will not file its next
7 general rate case before June 1, 2019. In adopting the Settlement Agreement, the ROO
8 highlights several benefits to customers, including that the Agreement "precludes APS
9 from seeking a base rate increase prior to June 1, 2019...."⁸ But in its ordering
10 paragraph, the ROO states that the parties agreed to APS not filing before June 19,
11 2019.⁹ APS requests clarification that the ROO intended to reflect the parties' agreement
12 related to the Rate Case Stability Provision, and in particular, that the timeframe for
13 APS's next rate case be modified to reflect no filing before June 1, 2019, rather than
14 June 19, 2019.

15 **II. THE SEPTEMBER 1 RATE EFFECTIVE DATE EXCEEDS THE TIME**
16 **CLOCK AND IS UNNECESSARY.**

17 The ROO recommends that the new rates established in this proceeding be
18 effective on September 1. This date, however, would be 15 months after APS filed its
19 application, and 13 days after the time clock expires on August 19.¹⁰ And if the
20 Commission considers the ROO during its regularly-scheduled Open Meeting on August
21 15-16, there does not appear to be a reason to delay the rate effective date until
22 September 1.

23 In fact, substantial reason exists for rates to be effective before September 1.
24 Adopting the Settlement Agreement entails finding that the Settlement Agreement
25 would produce just and reasonable rates, and is in the public interest. With that finding,

26 ⁸ ROO at 59.

27 ⁹ See ROO at 22 and 101.

28 ¹⁰ APS calculates the time clock as follows: 360 days established in A.A.C. R14-2-103(B)(11)(d)(i); plus
33 days as ordered in the January 13, 2017 Procedural Order; and an additional 21 days due to the 7 days
of hearing as provided for in A.A.C. R14-2-103(B)(11)(f). This adds up to a total of 414 days after
APS's filing was accepted and deemed sufficient on July 1, 2016, which is August 19, 2017.

1 there is no reason to delay implementation. Moreover, a significant amount of revenue
2 collection occurs during the summer months. Each day on which APS is not able to
3 implement already-approved rates causes APS to lose revenue that it can never
4 otherwise recoup. Assuming the rates recommended by the ROO are found to be in the
5 public interest and approved, this loss can be and should be avoided.

6 As a final note, the transition to charging the rates set forth in the Settlement
7 Agreement requires certain adjustments to APS's billing system. Given the need for
8 these adjustments, a rate effective date that falls over a weekend would facilitate a
9 smoother transition for customers. Accordingly, APS respectfully requests that the rate
10 effective date for new rates ordered in this proceeding be changed to the first Saturday
11 after the Commission votes on this matter. If the Commission votes on this matter
12 during the August Open Meeting, this would mean that rates would be effective on
13 August 19th.

14 **III. THE RECORD CONTAINS SUFFICIENT EVIDENCE TO SUPPORT**
15 **THE SETTLEMENT AGREEMENT'S PROVISION REGARDING AMI.**

16 The ROO bifurcates a decision regarding issues related to AMI opt-out to a
17 separate decision. APS does not necessarily oppose resolving AMI opt-out issues in a
18 separate decision. Because a significant amount of evidence has been introduced into the
19 record regarding all issues related to AMI, there is more than enough evidence to
20 support the AMI opt-out program outlined in the Settlement Agreement. Accordingly,
21 APS requests that the Commission make a decision based upon the evidence introduced
22 in this proceeding, and not order another proceeding or the introduction of additional
23 evidence.

24 **IV. APS DOES NOT OPPOSE THE 90-DAY NOTIFICATION**
25 **REQUIREMENT.**

26 As the ROO notes, APS is committed to ensuring that customers receive the
27 information they need related to their options at the end of the 90-day trial period.¹¹
28 Although the Settlement Agreement did not otherwise prescribe the information that

¹¹ See Settlement Agreement at Section 19.1.

1 APS is to provide to customers during this 90-day period, the ROO does provide for
2 some general parameters for how APS is to inform customers.¹² APS considers this
3 additional requirement to be consistent with the intent of the Settlement Agreement, and
4 does not oppose this addition.

5 **V. APS SUPPORTS THE ROO'S CONCLUSION REGARDING THE E-32L**
6 **RATCHET.**

7 APS strongly supports the ROO's recommendation related to the ratchet in the E-
8 32L rate. The parties introduced a substantial amount of evidence into the record
9 regarding E-32L rate design, the nature and purpose of batteries, and the most
10 appropriate way to incentivize new technologies. The ROO concludes that transparent
11 incentives, rather than incentives embedded in rate design, are the best means to
12 promote the adoption of new technologies. APS agrees. Transparent incentives offer
13 numerous advantages over incentives buried in rate design, including that they:

- 14 • permit the Commission to increase the amount of incentives to achieve
15 targeted policy objectives;
- 16 • permit the Commission to decrease the amount of incentives if technology
17 costs decline or it becomes apparent that the industry has matured enough
18 so that it no longer needs customer-funded subsidies;
- 19 • permit the Commission to structure incentives in a way that avoids over-
20 subsidizing projects, such as the reverse-auction structure used to award
21 up-front incentives to rooftop solar installations in years past;
- 22 • avoid questions of whether and how to grandfather customers who might
23 otherwise rely on incentives embedded in rate design when making
24 decisions on whether to adopt technologies; and
- 25 • provides transparency into the amount of incentives being paid in a
26 manner that facilitates robust dialogue regarding the nature and purpose of
27 incentives used to encourage developing technologies.

28 ¹² See ROO at 102.

1 APS is committed to developing a transparent and effective incentive program that
2 encourages the thoughtful adoption of battery technology.

3 **VI. CONCLUSION**

4 APS requests that the Commission approve the ROO with the following
5 modifications:

- 6 • Add language reflecting the parties' agreement that permits APS to defer
7 the costs associated with installing the Four Corners SCRs as indicated in
8 Attachment 1;
- 9 • Reflect the parties' intent that the \$1.25 million in crisis bill assistance be
10 funded in the revenue requirement as indicated in Attachment 1;
- 11 • Change the rate effective date to the first Saturday after a Commission
12 vote on this matter; and
- 13 • Clarify that APS's next rate case cannot be filed before June 1, 2019,
14 rather than June 19, 2019.

15
16
17 RESPECTFULLY SUBMITTED this 4th day of August 2017.

18
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Amanda Ho

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ATTACHMENT 1

APS PROPOSED AMENDMENT NO. 1

TIME/DATE PREPARED:

COMPANY: Arizona Corporation Commission

AGENDA ITEM NO.

DOCKET NO(S). E-01345A-16-0036 & 16-0123

OPEN MEETING DATE:

This amendment would ensure that the terms from the settling parties' agreement are accurately and fully included in the decision. First, the amendment would include in the decision the express SCR deferral language as agreed to by the settling parties. Second, the amendment clarifies that the \$1.25M in anticipated crisis bill assistance is to be funded through the revenue requirement as stated in the settlement term sheet. Third, the amendment clarifies that the stay out period in the settlement goes to June 1, 2019, not June 19, 2019.

SCR Deferral Language

Page 22, Line 20 before "The Settlement Agreement"

INSERT "The Settlement Agreement authorizes APS to defer, for possible later recovery through rates, all non-fuel costs of owning, operating, and maintaining the Selective Catalytic Reduction environmental controls at the Four Corners Power Plant from the date such controls go into service until the inclusion of such costs into rates. And"

INSERT

"IT IS FURTHER ORDERED that Arizona Public Service Company is authorized to defer for possible later recovery through rates, all non-fuel costs (as defined herein to include all O&M, property taxes, depreciation, and a return at APS's embedded cost of debt in this proceeding) of owning, operating, and maintaining the Selective Catalytic Reduction ("SCR") environmental controls at the Four Corners Power Plant. Nothing in this Decision shall be construed in any way to limit this Commission's authority to review the entirety of the project and to make any disallowances thereof due to imprudence, errors or inappropriate application of the requirements of this Decision."

Crisis Bill Assistance

Page 24, Line 10-11 after "\$1.25 million annually" **DELETE** "in shareholder provided funds"

Page 101, Line 28

INSERT

"IT IS FURTHER ORDERED that \$1.25 million of the revenue requirement increase approved in this order is dedicated to funding Arizona Public Service Company's crisis bill assistance program."

Stay Out Period

Page 22, Line 18 after "June" **DELETE** "19"

and **REPLACE** with "1"

Page 101, Line 27 after "rate case before June" **DELETE** "19"

and **REPLACE** with "1"

Page 101, line 12